

## **PUBLIC SAFETY AND CRIMINAL JUSTICE COMMITTEE**

**DATE:** June 9, 2004

**CALLED TO ORDER:** 5:02 p.m.

**ADJOURNED:** 9:12 p.m.

### **ATTENDANCE**

#### ATTENDING MEMBERS

Mary Moriarty Adams, Chairwoman  
Sherron Franklin  
Lynn McWhirter  
William Oliver  
Lincoln Plowman  
Scott Schneider  
Steve Talley

#### ABSENT MEMBERS

### **AGENDA**

PROPOSAL NO. 119, 2004 - appoints Kathy Tyler Scott to the Marion County  
Community Corrections Advisory Board  
"Tabled" Vote: 7-0

PROPOSAL NO. 273, 2004 - approves a transfer of \$11,345 in the 2004 Budget of the  
Public Defender Agency (State and Federal Grants Fund) to transfer surplus fringes to  
cover salary expense  
"Do Pass As Amended" Vote: 7-0

PROPOSAL NO. 274, 2004 - approves a transfer of \$120,000 in the 2004 Budget of the  
Public Defender Agency (County General Fund) to transfer fringes (Char 01) and capital  
outlay (Char 04) to other services and charges (Char 03) to pay expenses for seven (7)  
contractual attorneys handling termination of parental right cases for the balance of  
2004  
"Do Pass" Vote: 7-0

PROPOSAL NO. 302, 2004 - reduces the appropriations for the Marion County  
Prosecutor in the amount of \$300,000 for purposes of increasing the fund balance in the  
County General Fund  
"Do Pass" Vote: 4-3

PROPOSAL NO. 303, 2004 - reduces the appropriations for the Metropolitan Emergency Communications Agency (MECA) in the amount of \$50,000 for purposes of increasing the fund balance of the MECA Fund

"Do Pass"

Vote: 6-0

PROPOSAL NO. 304, 2004 - reduces the appropriations for the Marion County Justice Agency in the amount of \$65,233 for purposes of increasing the fund balance of the County General Fund

"Do Pass"

Vote: 7-0

PROPOSAL NO. 305, 2004 - approves an increase of \$1,000,000 in the 2004 Budget of the Marion County Sheriff's Department (County General Fund) to provide an additional appropriation due to fuel price increases

"Do Pass"

Vote: 7-0

PROPOSAL NO. 306, 2004 - approves an increase of \$500,000 in the 2004 Budget of the Marion County Public Defender Agency (County General Fund) to fund additional staff for representation of indigent respondents/defendants

"Do Pass"

Vote: 4-3

PROPOSAL NO. 307, 2004 - approves an increase of \$57,300 in the 2004 Budget of Marion County Prosecutor (State and Federal Grants Fund) to provide continued funding for a deputy prosecutor and part time investigator/victim advocate for the joint project, Regional Gang Interdiction Program, funded by a grant from Bryne Memorial Funds awarded through Indiana Criminal Justice Institute

"Do Pass"

Vote: 5-0

PROPOSAL NO. 308, 2004 - approves an increase of \$200,000 in the 2004 Budget of Marion County Prosecutor (State and Federal Grants Fund) to fund the budget of the Child Advocacy Center, funded by a grant from Family and Social Services Administration

"Do Pass"

Vote: 5-0

PROPOSAL NO. 309, 2004 - approves an increase of \$218,070 in the 2004 Budget of Community Corrections (State and Federal Grants Fund) to fund a Juvenile Court Intensive Probation Services Program for fiscal year 2004/2005, funded by a grant from the Department of Corrections

"Do Pass"

Vote: 6-0

PROPOSAL NO. 310, 2004 - approves an increase of \$946,254 in the 2004 Budget of Community Corrections (Home Detention User Fee Fund) to fund the first six months (fiscal year 2004/2005) of the Home Detention Program

"Do Pass"

Vote: 6-0

PROPOSAL NO. 311, 2004 - approves an increase of \$2,873,086 in the 2004 Budget of Marion County Community Corrections (State and Federal Grants) to appropriate the continuation of the annual Department of Corrections Grant for fiscal year 2004/2005, funded by a grant from the Department of Corrections

"Do Pass"

Vote: 6-0

PROPOSAL NO. 312, 2004 - approves an increase of \$35,830 in the 2004 Budget of the Marion Superior Court, Juvenile Division, (State and Federal Grants Fund) to hire a part-time commissioner to address the backlog of Termination of Parental Rights (TPR) cases, funded by a grant from the Indiana Supreme Court, Court Improvement Program

"Do Pass"

Vote: 7-0

VOLUNTEERS OF AMERICA PRESENTATION – Mary Leffler

## **PUBLIC SAFETY AND CRIMINAL JUSTICE COMMITTEE**

The Public Safety and Criminal Justice Committee of the City-County Council met on Wednesday, June 9, 2004. Chairwoman Moriarty Adams called the meeting to order at 5:02 p.m. with the following members present: Sherron Franklin, Lynn McWhirter, William Oliver, Lincoln Plowman, and Steve Talley. Scott Schneider arrived shortly thereafter. Councillors Rozelle Boyd, Greg Bowes, Joanne Sanders, and Dane Mahern were also in attendance. General Counsel Aaron Haith represented Council staff.

Chairwoman Moriarty Adams stated that Sue Patterson, director of finance for the Court Services Agency, has another engagement and has asked that Proposal No. 312, 2004 be heard early. Chairwoman Moriarty Adams asked for consent to move Proposal No. 312, 2004 first on the agenda. Consent was given.

PROPOSAL NO. 312, 2004 - approves an increase of \$35,830 in the 2004 Budget of the Marion Superior Court, Juvenile Division, (State and Federal Grants Fund) to hire a part-time commissioner to address the backlog of Termination of Parental Rights (TPR) cases, funded by a grant from the Indiana Supreme Court, Court Improvement Program

Ms. Patterson stated that this proposal would address the backlog of cases regarding the termination of parental rights (TPR). She said that TPR cases are at an all-time high, and addressing the backlog will help children achieve permanency on a more efficient and timely basis. She said that the money will go toward salary and benefits, and there is no grant match requirement of local dollars.

[Clerk's Note: Councillor Schneider arrived at 5:04 p.m.]

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 312, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 119, 2004 - appoints Kathy Tyler Scott to the Marion County Community Corrections Advisory Board

Chairwoman Moriarty Adams stated that Ms. Scott is not available to serve at this time. Councillor Talley moved, seconded by Councillor Oliver, to "Table" Proposal No. 119, 2004. The motion carried by a vote of 7-0.

PROPOSAL NO. 273, 2004 - approves a transfer of \$11,345 in the 2004 Budget of the Public Defender Agency (State and Federal Grants Fund) to transfer surplus fringes to cover salary expense

Councillor Talley provided a handout (Exhibit A) and moved to "Amend" Proposal No. 273, 2004 as per the handout. He asked Dan Jones, Deputy Auditor, to explain the amendment. Mr. Jones stated that last year all fringes were in the Auditor's Office budget. Because this was an old grant, the money for fringes was still in the Auditor's budget. This amendment makes it clear that the money is being transferred from the Auditor's budget and into the proper budget to cover salary and fringe benefit expenses related to this grant for the Public Defender's Agency. Councillor Oliver seconded the motion to "Amend" as per Exhibit A, and the motion carried by a vote of 7-0.

David Cook, Chief Public Defender, stated that this transfer simply helps to pay expenses out of the correct sub-object and closes out a grant. He said that fringes for the sentencing consultant should have been paid out of grant dollars and not from the County General Fund.

Councillor Talley moved, seconded by Councillor McWhirter, to send Proposal No. 273, 2004 to the full Council with a "Do Pass As Amended" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 274, 2004 - approves a transfer of \$120,000 in the 2004 Budget of the Public Defender Agency (County General Fund) to transfer fringes (Char 01) and capital outlay (Char 04) to other services and charges (Char 03) to pay expenses for seven (7) contractual attorneys handling termination of parental right cases for the balance of 2004

Mr. Cook stated that he provided a packet of information earlier to all Committee members regarding the funding issues with his office, which included a letter from the director of the Juvenile Justice Center for the American Bar Association (ABA), a copy of the National Legal Aid and Defender Association (NLADA) ethics opinion, a reimbursement report from the Indiana Public Defender Commission ("Commission"), and copies of the Powerpoint presentation to be offered this evening. He said that the caseloads in the area of termination of parental rights (TPR) and Children in Need of Services (CHINS) are extreme and greatly exceed state and national standards. He said that these are cases brought to the juvenile court. In many instances, the courts order the parents to obtain counseling, attend anger management or substance abuse classes, or in the worst case scenario, terminate their rights as a parent.

Mr. Cook said that in 2000, he came to the Public Safety and Criminal Justice Committee making the same presentation emphasizing that TPR/CHINS cases were growing steadily and spiraling out of control. He said that this is not the first time the issue has been raised and should not come as a surprise to anyone. He said that the number of TPR cases filed has tripled, yet the number of attorneys to handle the

caseload has remained the same. He said that it became apparent that this dilemma in the juvenile division is reaching epic proportions, hindering the effective representation of clients, and denying attorneys the resources to provide a proper defense. He said that the lawyers become ineffective because of their caseload and it equates to essentially having no defense, not just a poor defense. One lawyer had 86 TPR cases pending at one time. The lawyers have come to him and said they cannot handle the workload anymore. He said that most of these cases are very complicated, with substance abuse and mental health issues often involved, and they carry substantial consequences for families.

Councillor Oliver asked if there are constitutional issues and if children are being deprived of due process. Mr. Cook said that providing citizens with indigent legal service is a constitutional mandate with particular requirements that came as a result of *Gideon v Wainright* in 1963. These requirements go beyond just assigning a lawyer to a case, and the lawyer must have the time and resources to provide adequate defense. Councillor Oliver asked what the outcome is when proper representation is not provided. Mr. Cook said that inadequate representation causes a tremendous delay in the system, continuances, overwhelmed court dockets, and sometimes inappropriate results with children being taken away from their parents instead of finding alternative services and programs.

Councillor Talley asked if it is likely that there is a lesser or greater chance to see children later in the system because of poor representation. He asked if sometimes poor representation could even result in the death of a child. Mr. Cook said that he does not have any hard statistics, but he believes it is a possibility. He said that more resources need to be put into the juvenile system to find alternative activities to guide children away from this kind of a life. He said that he believes children will continue to have problems if these issues are not addressed. He added that TPR is actually adult representation and deals with taking children away from their parents, which can also cause serious future repercussions.

Mr. Cook said that the TPR case filings for 2004 are estimated at close to 400, based on statistics from previous years. His lawyers cannot handle additional cases. He said that he was ordered by the court to take these cases, knowing he could not do so and also provide adequate representation. He said that he informed the courts that the caseloads of TPR/CHINS exceeded standards and they could not accept any additional case assignments. The Executive Committee of the Marion County Superior Courts ordered the agency to continue to accept cases and hire additional attorneys to maintain the caseloads adequately. Since this court order directed the intentional overspending of the 2004 budget, the agency again refused unless the court would support the funding request with a mandate. After the Committee amended its order to a mandate, Mr. Cook then authorized the hiring of seven new contract attorneys. The \$120,000 in this proposal represents the money needed to fund this addition through the end of 2004. The money for these contracts has been found in some excess fringes

money in Character 01 and some shift in Character 04 monies to Character 03 to fund the new positions.

Councillor Talley asked if the Public Defender's Office can meet State standards with these additional attorneys and if there will then be a reimbursement from the Indiana Public Defender Commission if those standards are met. Mr. Cook said that there are provisions for reimbursement for meeting State standards and that money would come back to the County General Fund on juvenile cases. However, unfortunately TPR cases are not subject to reimbursement. Councillor Talley asked if the reimbursements only go to the County General Fund. Mr. Cook said that this is correct.

Councillor McWhirter asked who the Public Defender defends in a TPR case. Mr. Cook said that they defend the parent. Councillor McWhirter asked who takes into account the care and best interests of the children. Mr. Cook said that this is the job of the Office of Family and Children. Councillor McWhirter asked if there are multiple defendants in these cases. Mr. Cook said that it is very common that these cases have multiple parents, and each parent has to be represented.

Councillor Oliver said that the thought that many children are literally left defenseless really bothers him. He asked if the ABA has taken a view about the system as to processing children and the impact the lack of defense has. Mr. Cook said that the letter provided from the ABA is a scathing indictment on the juvenile system and contains 12 or more recommendations.

Councillor Schneider asked who sets the State standards. Mr. Cook said that the State Commission set them in the early 1990s. He said that the standards dictate requirements for minimum experience, caseloads, workspace, etc. He said that the Commission also administers a pot of money for the counties that comply with these standards. Previously, they would reimburse counties at 25%, but that reimbursement has increased to 40%. There are 55 counties that receive reimbursements. Councillor Schneider asked if the State Legislature established these standards and if they update them. Mr. Cook said that that he has personally given the Commission feedback on the workload and what his lawyers actually do. None of the other counties have the volume Marion County has. For other counties the original standards were fine, but it has taken him two to three years to get some changes to those standards to help Marion County.

Chairwoman Moriarty Adams welcomed President Boyd, Vice-President Sanders, and Councillors Bowes and Mahern and invited them to participate in the discussion if they so desired.

Councillor Sanders asked if 40% is the maximum reimbursement, and if the cases are typically funded to that degree. Mr. Cook said that early on not many counties were involved, and the County received 40% on all cases. If the funding is insufficient, the Commission pro-rates payments. The lowest reimbursements have been at about 28%, and the mid-range average has been in the 30 to 35% range. He said that they are now

appropriately funded up to \$10 million and he anticipates full reimbursements at 40% for the next several years.

Councillor Schneider asked where the \$100,000 in Character 01 was found. Mr. Cook said that health benefit premiums were projected higher than needed, and an extra \$100,000 of unused fringes has been identified. Councillor Schneider asked where the \$20,000 in Character 04 is coming from. Mr. Cook said that this is a result of underspending. Councillor Schneider asked what the money was originally earmarked for. Mr. Cook responded that they have juggled funds and there is sufficient Character 04 monies to accomplish all the agency needs in 2004.

Chairwoman Moriarty Adams asked if surplus fringe monies have been built into County budgets. Mr. Jones said that fringe costs were estimates, as benefit packages had not yet been negotiated when the budget was approved. He said that they overestimated these expenses in the Public Defender's Agency. Much of this is due to turnover rates. The County now has a 90-day period for new employees to qualify for health benefits, and where there is a large turnover in an agency, there will be surpluses in the area of fringes. Chairwoman Moriarty Adams asked what the percentages are for turnover and cost estimate savings. Mr. Jones said that he does not have that calculated and can look at it and let the Committee know.

Councillor Oliver moved, seconded by Councillor Talley, to send Proposal No. 274, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

Chairwoman Moriarty Adams asked for consent to move Proposal No. 306, 2004 next on the agenda. Councillor McWhirter said that she has no problem with Mr. Cook making his presentation on Proposal No. 306, 2004 at this time, but before she votes on the ordinance, she would like to hear testimony on the other proposals reducing appropriations and increasing the fund balance. She said that because an appropriation may be contingent on monies being available, it would make better sense to hear the proposals in order. Councillor Talley agreed.

PROPOSAL NO. 302, 2004 - reduces the appropriations for the Marion County Prosecutor in the amount of \$300,000 for purposes of increasing the fund balance in the County General Fund

Carl Brizzi, Marion County Prosecutor, commended the Committee for taking a hard look at budget issues in the past few months. He said that he knows there are many fiscal issues facing the City and County. He said that this ordinance proposes a reduction in the Prosecutor's budget of \$300,000. He said that last year, the Prosecutor's Office tried a record number of jury trials, going from 340 trials the previous year to 367 in 2003. He said that even though the staff has not increased, the win record has not suffered and has actually increased in spite of the increased trial load. He said that 41,143 criminal cases were filed last year, with 6,400 of them being



juvenile cases, excluding traffic cases. He said that year-to-date they have already filed 19,931 criminal cases, with 2,800 in juvenile court. These cases are brought by all law enforcement entities, including the Indianapolis Police Department (IPD), the Marion County Sheriff's Department (MCSD), excluded cities police forces, and State and Federal public safety officials. He said that the Prosecutor's Office has been tireless in the pursuit of justice, and the work the police forces do is meaningless if his office does not follow up.

Councillor Talley asked if early intervention helps to reduce crimes. Mr. Brizzi said that it absolutely does. He said that in addition to prosecuting offenders, they provide mentoring to approximately 95 at-risk kids through a new mentoring program. Councillor Talley said that the Public Defender Agency provides intervention services in TPR cases, and this can also serve to prevent offenses. Mr. Brizzi said that he completely agrees with this and has no objection to the Public Defender's Office getting money to help with the backlog of TPR and CHINS cases. Councillor Talley asked then what the answer to the funding issues for the Public Defender Agency are. Mr. Brizzi said that he has some suggestions in his presentation.

Councillor Sanders asked if there were 41,143 cases filed last year and only 367 went to trial, how these numbers are so drastically whittled down. Mr. Brizzi said that many cases result in negotiations prior to trial. Councillor Sanders asked if they have other resources to help with investigation. Mr. Brizzi said that the investigation phase has usually already been completed and probable cause found when a case is actually filed. Councillor Sanders asked if every case filed is reasonable for trial and if IPD, Forensic Services, and MCSD serve as investigators for the Prosecutor's Office. Mr. Brizzi said that all of these law enforcement agencies are partners in the fight against crime.

Councillor Talley asked if Councillor Sanders, initiator and sponsor of the proposal, could first provide an overview before the Prosecutor's presentation. Councillor Schneider agreed and said that it would be appropriate for the sponsor to make her comments first and then let the agency, public, and Committee members respond. Chairwoman Moriarty Adams called on Councillor Sanders for a brief overview of the proposal.

Councillor Sanders said that this proposal reduces the Prosecutor's Office 2004 budget by \$300,000. She said that the Council initiated budget reviews near the first of the year because of shortfalls in assessed valuation revenue and because of more deficits looming in 2005. These reviews looked at County budgets across the board. The County Auditor cannot impose budget cuts on other agencies like the City Controller can on City departments. The Auditor can recommend cuts and austerity measures, but the agencies would have to agree to follow these recommendations. As the fiscal body of the City and County, it is the Council's duty to therefore review budgets and make cuts and hard decisions about the financial future of Marion County and Indianapolis. During the budget review hearings, it was determined that the Prosecutor's Office would have excesses in Character 01 and Character 03 of over

\$150,000 each, and therefore this reduction is proposed to help increase the fund balance in the County General Fund.

Councillor Talley asked if any deputy prosecutors will be laid off as a result of these reductions. Councillor Sanders said that she does not anticipate that. She said that last year the Auditor asked agencies to cut back their budgets 5%, and this is only a 2.2% reduction of the Prosecutor's total budget. Councillor Talley asked if this reduction will then not have any negative impact on the Prosecutor's Office handling cases. Councillor Sanders said that it will not.

Councillor McWhirter stated that she has difficulty with a Council member determining what affects these cuts will have on an elected official's budget. She said that Mr. Brizzi has already testified that his caseload is increasing, and she would like to know exactly where Councillor Sanders sees an excess. She said that the Prosecutor and other County agencies are continually asking for more funds to make salaries more competitive. She said that these reductions could jeopardize public safety in Marion County and they seem like a shot in the dark. She added that the Marion County Criminal Justice Planning Council has been charged with looking holistically at the problems facing Marion County, and before making such cuts, the Council should wait on recommendations from that planning committee. She asked what happens if the Council were to cut this \$300,000 and then the planning committee came back with a \$400,000 increase.

Councillor Sanders said that there is no report coming soon from the planning council and the agencies have to find the funds to get through 2004. She said that these reductions are not a shot in the dark and it was determined through discussions with Mr. Brizzi that there would be some flexibilities in the budget due to vacancies. Chairwoman Moriarty Adams added that last year the Prosecutor returned \$125,000 to the General Fund and testified during budget reviews that they plan to come in under budget again this year.

Councillor McWhirter said that by cutting his budget, the Council is giving the Prosecutor no leeway. She said that fringes and benefits for employees can change with simple marriage status changes, and it is very hard to estimate Character 01 costs, even with vacancies. She said that the Prosecutor has already testified he might have excesses and would return it to the General Fund if he does not need it, but this reduction ties his hands. She said that she cannot support this proposal.

Councillor Sanders said that the point is to recoup the excesses now to help with the unpredicted shortfalls in revenue. She said that she is not suggesting Mr. Brizzi would fritter away the excess, but many agencies will spend the funds if they are there, even though they might not be in dire need of them. Councillor McWhirter asked then whose fault it will be if Mr. Brizzi's office faces a shortfall at the end of the year as the result of this reduction and has to come back for additional appropriations. She asked if it will be

Mr. Brizzi's fault or the fault of the Council for cutting his budget. She said that it is too early in the year to make this cut.

Councillor Schneider said that these cuts are arbitrary and capricious and there has not been any dialogue about where the funds are coming from and why. Councillor Sanders stated that first quarter actuals were presented during the budget reviews. John Commons, Chief of Staff for the Prosecutor's Office, stated that there was an excess of \$180,000 in Character 01. He testified that later in the fall there was sometimes a turnover, and some of those funds might be needed at that time. Mr. Commons agreed that he did testify to this fact. He said that the bar exam is held in July, and because the Prosecutor's Office cannot offer competitive salaries, sometimes employees go on to other job opportunities in late September or October. He said that if there is no extra money in Character 01, they cannot replace these positions. He said that this excess is built into the budget every year, but the Prosecutor's Office tries to save funds wherever they can.

Councillor Schneider asked what the rationale is behind these \$150,000 figures. He asked why Councillor Sanders didn't just take the entire \$180,000 excess that was testified to. Councillor Sanders said that because of the testimony about possibly needing this money to hire and fill vacancies at the end of the year, they left some of it in place. Councillor Schneider asked why Councillor Sanders thinks \$30,000 is sufficient. Councillor Sanders said that based on \$35,000 yearly salaries, two months worth of salaries would not exceed \$30,000. She said if they hire two to three people at \$35,000 in October, then two months worth of those salaries would be all they would need for this year's budget.

Councillor Talley said that waiting for the Planning Council to give a report and submit their recommendations would not be prudent. He said that there are too many problems with court mandates regarding TPR cases, and action needs to happen now. Councillor McWhirter said that the previous proposal just appropriated funds to address those TPR issues for this year. Councillor Talley said that this does not cover all the needs in this area.

Councillor Franklin asked if the Prosecutor's Office has a relationship with the Superior Court and interacts closely with them. Mr. Brizzi said that they definitely do. Councillor Franklin asked if the Prosecutor and Courts come by way of their clients through the work of law enforcement personnel. Mr. Brizzi said that this is correct.

Mr. Brizzi said that his biggest problem with the proposal is that dialogue only occurred after the ordinance was already filed and a press conference was held. He said that any dialogue that has taken place since only occurred because he called with concerns. He said that there was no conversation with him before the proposal was filed about what budget cuts might do to his office. He said that this cut cannot be taken in a vacuum without understanding all the needs of his office. He has no objection to the Public Defender having attorneys to handle cases, but these cuts and increases are not

being handled in a holistic manner. Mr. Brizzi said that he does not believe Mr. Cook would say the Prosecutor's Office has too many lawyers; both agencies are understaffed. He said that to take \$300,000 out of his budget and then increase the Public Defender budget by \$500,000 puts the Prosecutor's Office at an \$800,000 disadvantage and throws the scales of justice out of whack. He said that he and Mr. Commons did testify that they would come in under budget and he intends to do so. He said that he does not fritter away funds and is conscience of helping other areas of public safety when he can, and did so last year to help fund jail beds. He said that there are seven and a half prosecutors in the juvenile court, and there are five full-time and three part-time public defenders in juvenile. Adding four public defenders tips the scales in favor of the offenders and leaves many victims without justice. He said that it needs to be looked at in a holistic fashion and all aspects should be taken into consideration.

Councillor Talley said that the Prosecutor's Office has resources that the Public Defender Agency does not have, such as the forensic services lab, the Sheriff, the Coroner. He said that the scales are not weighted evenly now.

Mr. Brizzi said that no facts or statistics were solicited from him prior to the decision to make these cuts. He said that cases come to his office and his attorneys are overworked also, but are dedicated to keeping the streets safe. He said that all these factors are being considered in the Planning Council. Every entity of law enforcement could use additional resources, and he is not opposed to helping other agencies when he can, as evidenced by his giving money to help with jail beds. He said that he would like to see the proposal tabled to see if there is extra money for an equal balance and a fair approach to these funding issues.

Councillor Talley said that he took offense to Mr. Brizzi's comments in *The Indianapolis Star* saying that this reduction would insure that fewer victims receive justice. He said that Mr. Brizzi is using scare tactics and threats to make the community feel the Council is against keeping streets safe. He said that his comments also implied that everyone arrested is guilty. Mr. Brizzi said that his comments were not meant to be scare tactics but were simply the truth. He said that the first he heard of these cuts were in the press conference. He said that as the head of the Prosecutor's Office, he was not given any opportunity to talk about the impact of such reductions. He said that he does not believe this was well-thought-out and the effect on the citizens of Marion County was not taken into account. He said that he is not making threats, but the Committee members' votes will speak for themselves to the citizens. Councillor Talley asked Mr. Brizzi what evidence he has that this action was not well-thought-out. Mr. Brizzi asked why the Council would not call the head of an agency if they were going to cut their budget.

Councillor Schneider said that he agrees that these cuts are arbitrary and capricious and not well-thought-out. He said that there should have been more involvement by the agencies affected. He said that Mayor Bart Peterson ran on the platform of putting 200

more police officers on the street. He said that it is short-sighted to take money from the Prosecutor when his caseload is increasing because of the addition of police officers. He said that it is a huge difference to take money mid-stream instead of letting the Prosecutor return money to the General Fund at the end of the year. He said that he trusts Mr. Brizzi to run his office in a fiscally responsible manner. Councillor Schneider moved, seconded by Councillor McWhirter, to "Table" Proposal No. 302, 2004. The motion failed by a vote of 3-4, with Councillors Franklin, Moriarty Adams, Oliver, and Talley casting the negative votes.

Councillor Sanders said that Mr. Brizzi received a letter of notice about the budget cuts and actually called to schedule a lunch before the press conference took place. She said that these cuts were not arbitrary and capricious. She said that she knows the Prosecutor's Office does a good job, but the Council is charged with looking at the overall budget that helps to support them. She said that they looked at all public safety agencies and their needs during the budget reviews. She said that out of the total \$212 million public safety budget, the Public Defender represents \$9 million, and the Prosecutor \$12 million. She asked if it was not part of the Prosecutor's responsibility to insure that the accused get proper representation. Mr. Brizzi said that his office's mission is to prosecute, protect, and prevent. He said that he knows financially times are tough, and he always tries to be a good steward of money. He said he stands firm that government should not be subsidizing criminal behavior and defense. Councillor Sanders said that according to Rule 3.8, the Prosecutor has a responsibility to administer justice and see that the defendant is accorded justice. This would include insuring that the defendant have proper representation.

Councillor Bowes stated that the Marion County Sheriff's Department (MCSD) is a partner in law enforcement, and a \$1 million increase is being proposed this evening for their budget. He asked why Mr. Brizzi is not opposed to this increase. Mr. Brizzi said that this decision for an increase was not made in a vacuum, but other decisions seem to be lopsided. He said that the reduction in his budget and increase in the Public Defender budget is giving the opposing side an extra half million, while cutting \$300,000 from his budget and therefore causes an imbalance in the scales of justice in favor of the defense. He said that if the proposals pass, he will have a next-to-impossible time of achieving parity with the Public Defender staff.

Councillor Bowes asked the Public Defender how many investigators his office has. Mr. Cook said that they have two full-time investigators. Mr. Bowes said that Mr. Brizzi has all of IPD, MCSD, Forensic Services, and all other law enforcement agencies at his disposal, so how can he speak of having parity. Mr. Brizzi said that no one helps his lawyers try cases in court and therefore they are no different from the public defenders in that respect. Councillor Bowes said that he has been in trials where the prosecutors have several individuals at their table, and he is the only one representing a client at the defense table. Mr. Brizzi asked if Councillor Bowes is a criminal defense attorney. Councillor Bowes said that he is, but he has been both a deputy prosecutor and a public defender, and has tried many cases and it has always been the case that the

prosecutor always has at least two attorneys and a police officer or deputy sitting at his table in court. He asked what a new deputy prosecutor's salary is typically. Mr. Brizzi said that it is typically \$35,000. Councillor Bowes stated that compared to \$27,500 for a public defense attorney, this is already an inequity. Mr. Cook stated that the \$27,500 figure is for contract attorneys, and the actual new hires in his office would start at approximately \$33,000. Councillor Bowes said that Mr. Brizzi stated that his office has 300 to 400 cases per year, while the Public Defender has 975 cases a year. He said that the prosecutors are 300 cases behind the Public Defender each year, yet pay their attorneys \$2,000 to \$3,000 more. Mr. Brizzi said that he testified that there are 300 to 400 cases open at any one time, but they have closer to 1,000 misdemeanor cases a year.

Councillor Bowes said that the Public Defender Agency is under a mandate from the Supreme Court. If there is a limited set of funding, how does Mr. Brizzi suggest the Council find the money to pay for the mandated increase. Mr. Brizzi said his concern is that there has been no dialogue about it. To address a court-ordered mandate, all parties should have come together, found efficiencies and pooled resources in order to properly fund both sides. Councillor Bowes said that police officers are already at Mr. Brizzi's disposal and these resources are not available to the defenders. He said that the MCSD has an \$88 million budget and IPD has a \$117.2 million budget, and all of these resources are at the Prosecutor's disposal. Mr. Brizzi said that he would not say these law enforcement officers are at his disposal, but he agreed that he could not do what he does without them. Councillor Bowes said that \$300,000 is a very small portion when compared to a \$212 million budget at Mr. Brizzi's disposal. Mr. Brizzi said that by taking the \$300,000 from his office and increasing the Public Defender \$500,000, the Council is insuring more resources for defendants and less for victims, and therefore the victims will suffer.

Councillor Franklin asked if Mr. Brizzi's objection is based on the principle that he was not informed. Mr. Brizzi said that he objects to the fact that he was not consulted about the impact of these cuts on his budget, and that he is always willing to work with the Council on funding issues or any other matters. Councillor Franklin said that she will not be able to ultimately support this cut in the budget at the full Council meeting if it is not made clearer why these cuts are being made and how they will affect the operation of the Prosecutor's Office, although she will support the recommendation to the full Council this evening.

President Boyd stated that he takes great exception to the comments that these reductions are capricious and arbitrary. He said that these fiscal measures have been extremely well-thought-out, even though some individuals may be dissatisfied with some hard decisions that needed to be made. He said that there is a growing fiscal problem in Indianapolis and Marion County because of prior Council bodies not taking a realistic look at long-term issues. He said that when he heard that the City and County would need to deal with a deficit in revenues and were facing a mandate atmosphere, his response was prompt and methodical. He said that there was a lot to accomplish in

a short period of time, and to wait to address these issues would be irresponsible. He said that he is sure the Council would have been criticized later if the situation was not addressed this early. This is an extraordinary situation, and the Council has never before had to perform mid-year budget reviews. President Boyd said that his first response to the shortfalls was to contact Vice President Sanders and ask that she tackle this monumental effort. He said that the Committees have done a good job working through these issues, and have been very responsible in facing an impossible situation. He said that there will undoubtedly be some minor mistakes and disparities, but it has been a good review process, and he hopes the Council can deal realistically with fiscal issues in the future so that they do not face a similar situation down the road. He said that the financial problems facing the City and County are tremendous, and harder decisions are still ahead of the Council.

Councillor Talley apologized to Mr. Brizzi for his reaction to his comments that this process was not well-thought-out, but he was personally offended, because he knew it to be a very well-thought-out process. He said that he has always enjoyed an excellent relationship with Mr. Brizzi's office and supports the work they do. He said that he has fought for increases in salaries for Mr. Brizzi's staff, as he knows they deserve better pay.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 302, 2004 to the full Council with a "Do Pass" recommendation.

Councillor Plowman said that Councillor Bowes seems to be offended with the MCSD and IPD working for the Prosecutor's Office. He said that Mr. Brizzi is not in charge of police officers and deputies. As a sheriff deputy, the Public Defender's Office has often used him as a resource, as well. He said that to say the MCSD and other law enforcement agencies only work for Mr. Brizzi and are at his disposal is incorrect. Law enforcement officers are dedicated to serving justice, and they depend on the Prosecutor's Office to help keep the offenders they arrest off the street. He said that to say police officers only work for the Prosecutor is outrageous. He said that the City depends on the Prosecutor to do his job, yet the Council is taking away his resources without even consulting him on how he can cover these reductions and still maintain his operations. He said that he cannot support the proposal.

Councillor Schneider said that he has been a member of the Public Safety and Criminal Justice Committee for four years and has always felt politics never entered public safety, but he cannot say that today. He said that with the exception of the Prosecutor, all other public safety agency heads were consulted about these reductions and were okay with them. He said he still believes these cuts are arbitrary and capricious and it would be a travesty to pass them when the Prosecutor was not consulted on the effect of these reductions. He said that the proposal should have been tabled for more discussion, but in lieu of that, he thinks it should be defeated.

Councillor Bowes asked if Mr. Brizzi has 95 deputy prosecutors on adult cases. Mr. Brizzi said that he has 93 total prosecutors, including the seven assigned to juvenile court, so he actually has 86 prosecutors assigned to adult cases. Councillor Bowes said that based on 41,143 adult cases filed in 2003, the average annual caseload of a prosecutor would be 478, not 1,000. Mr. Brizzi said that the 1,000 cases referred to earlier were total misdemeanor cases. Councillor Bowes said that he was a deputy prosecutor and their duties are not near as involved as to what is required of a public defender in the same case.

Councillor McWhirter said that to discuss equity with regards to public defenders and prosecutors, it also needs to be noted that not every one of the cases prosecuted has a public defender. While some offenders hire private paid attorneys, all cases require a prosecutor. Mr. Brizzi said that this is correct, and that approximately 75% of cases in juvenile court actually utilize a public defender. He said that he is sorry this discussion has seemed to degenerate into something it should not have. He said that the lawyers that work for him are not in it for the money; they simply have hearts that seek justice and they care about victims. He said that Councillor Bowes saying that their duties are not as involved as the public defenders' sends a terrible message to the people who work to protect him. He said that he understands that with the political make-up of the Committee being what it is, he will have to expect the vote to be what it is.

Councillor Oliver said that Mr. Brizzi disrespects this body by making that kind of a statement and disrespects the Public Defender by glaring at him throughout the presentation. He said that Mr. Brizzi owes this body a public apology, when officers do not even offer miranda rights to offenders as required by law. Councillor Plowman called for a point of order and stated that Councillor Oliver's remarks are out of order.

Chairwoman Moriarty Adams stated that there is a huge fiscal crisis facing the City and County. The Sheriff's Department does not even have enough money for gas to put patrol cars on the street. She said that these are difficult decisions, but the problems being faced are immediate and cannot wait to be addressed. Therefore, the Council needs to find the money now and return as much money as they can to the General Fund. She added that since she and Mr. Brizzi set up a lunch appointment, she has asked him on several occasions to provide the Council with a reduction number he could live with, but she has not received any such number and the Prosecutor simply is asking that the proposal be tabled or the budgets be increased on both sides. She said that it is an unfortunate situation to have to cut budgets and she knows that these proposals will not make everyone happy. She said, however, that she did contact Mr. Brizzi to discuss a compromise and a number he could live with on at least three occasions.

Rosie Stockdale, near eastside resident, said that increasing the caseload but decreasing the budget will encourage public defenders to call for a speedy trial, which will in turn put criminals back onto the streets in her neighborhood, and therefore put her in jeopardy. She said that by passing this proposal, the Council becomes an



accomplice in possibly making her a victim. She said it is sad that this has come down to politics instead of concentrating on public safety, and she will encourage her neighbors and friends to look at this voting record before the next election.

Lorraine Mattingly, northeast side resident, stated that she believes citizens deserve proper defense, but these dollars need to be used for alternative programs and prosecution if parents are not doing their jobs and keeping their children away from criminal activity. She said that the Committee members do not live in her neighborhood and do not know what she faces on a daily basis. She said that she believes Councillor Oliver owes her a public apology for saying that her protection does not matter as much as an offender's rights.

Denise Mattingly, near eastside resident, stated that she does not understand how law enforcement personnel can be lumped with the Prosecutor, when they strive to serve the entire community. She said that it seems the Prosecutor is being penalized for being a good steward and returning money at the end of the year. She said that this definitely seems like politics when a proposal is snuck under the wire. She said that to say the Prosecutor was informed of the cuts is not the same as saying serious discussion and understanding has taken place. She said that simply calling a person to get a number is not acceptable. She added that it is sad that it took a mandate for the Committee to come together to even start to address the issue. She said that it certainly seems to be about politics and she is offended. She said that Councillor Sanders used "if" and "I guess" in her responses to questions about whether the money was there and she feels the cuts are indeed a stab in the dark.

Mr. Cook said that suggesting that parity is a lawyer for a lawyer is off-base. He said that he worked in the Prosecutor's Office and they know how to use investigators and police officers well, and law enforcement personnel are very responsive to the requests of the Prosecutor's Office. He said that the Public Defender Agency is excluded from using the forensic services lab and the reality is that the Prosecutor has a bigger team. The defense is the only arm subject to constitutional review, and that needs to be taken into consideration. He said that the Public Defender Agency represents the "accused" and that does not mean that all of them are guilty. He said that he concedes that the Prosecutor does not have all the resources he needs either, and it is important to have all pieces in place for a good system, but he cannot concern himself with where the money comes from to fund his needs.

Mr. Brizzi said that he agrees with Mr. Cook's observations that all pieces need to be in place for a good system, and that is why he requested the proposal be tabled in order to have that discussion.

Councillor Mahern stated that he respects the job the Prosecutor's Office does, but a lot of time and effort has gone into this process of budget review. He said that 15 of the 29 Councillors are new and these fiscal situations did not happen overnight, and many of the current Council members did not know the severity of what the City was facing when

they came on board. He said that this is not political and they are looking at every agency to see what is needed to use the money most effectively.

David Griffith, supervisor of the D-Felony Misdemeanor Division for the Prosecutor's Office, said that there seems to be a notion that the Prosecutor's Office has so much excess money. He said that they have 10 courts and four attorneys per court, one per day. He said each one has 350 to 500 cases apiece. He said that he has often seen public defender paralegals at the table on cases with a four-to-one ratio in court. At any given time in his division, they are down four to seven attorneys, and they cannot do justice to the cases when they are constantly losing people and having to cover the shortfall. He said that almost all of the lawyers in his division leave because they cannot support their families on what they get paid.

Councillor Talley's motion to send Proposal No. 302, 2004 to the full Council with a "Do Pass" recommendation carried by a vote of 4-3, with Councillors McWhirter, Plowman, and Schneider casting the negative votes. Councillor Franklin stated that she wants to reiterate that she cannot support the proposal on the Council floor if she does not see the information she requested.

PROPOSAL NO. 303, 2004 - reduces the appropriations for the Metropolitan Emergency Communications Agency (MECA) in the amount of \$50,000 for purposes of increasing the fund balance of the MECA Fund

Councillor Sanders stated that this proposal also comes as a result of the budget reviews. She said that during testimony, it was identified that MECA would have an excess of \$50,000 in Character 03, and this proposal simply captures that excess in fund balance to make up for shortfalls.

Linn Piper, executive director of MECA, stated that he understands the fiscal situation and the agency will make do with the cuts.

Councillor McWhirter asked if they will have to give up anything in order to accommodate these cuts. Mr. Piper said that there is nothing that cannot be forestalled until next year and the reduction will not impair services in any way.

Councillor Plowman said that these monies are not going into the County General Fund, and asked if the funds would then still be available for access. Mr. Piper said that if the Council would allow an appropriation from fund balance, it would still be accessible.

Councillor McWhirter moved, seconded by Councillor Talley, to send Proposal No. 303, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 6-0. [Clerk's Note: Councillor Franklin was out of the room during the vote.]

PROPOSAL NO. 304, 2004 - reduces the appropriations for the Marion County Justice Agency in the amount of \$65,233 for purposes of increasing the fund balance of the County General Fund

Councillor Sanders stated that this is another proposal that came as a result of the budget reviews. She said that the Marion County Justice Agency (MCJA) identified these reduction areas for the Council and the proposal was introduced based on those suggestions.

Melinda Haag, executive director of MCJA, provided a breakdown of the cuts (Exhibit B) and said that these cuts equal approximately 4.85% of the MCJA budget. She said that the role of the MCJA is to support the criminal justice system in Indianapolis. Although the agency could itself use more people and more money, they recognize that sometimes needs are greater in other agencies that they support, and they are willing to help when they can. She said that this reduction will not affect services in any way.

Councillor McWhirter asked if the reductions in Character 02 might put the agency at a disadvantage, based on the remarks at the bottom of Exhibit B. Ms. Haag stated that this is an area where they will be close to running out, but when they first met in April, she charged her staff to be more careful and conscious about supplies and they are hopeful they can live within these new budgeted amounts.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 304, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 305, 2004 - approves an increase of \$1,000,000 in the 2004 Budget of the Marion County Sheriff's Department (County General Fund) to provide an additional appropriation due to fuel price increases

Councillor Sanders stated that during the budget reviews it was obvious that the high gasoline prices have affected the Sheriff's budget tremendously. She said that the department has had no increase in their fuel budget for the last several years. After the last few bills, it is anticipated that the year-end costs will exceed \$1 million. She said that some other line items can be shifted to cover some of that excess, but an additional \$1 million is needed.

Major Ron Chappell, Finance Officer for MCSD, said that in response to the budget as referenced earlier for the MCSD, he wants to make it clear that only \$35 million of that is for sheriff deputies. The other portion goes toward entities such as the two jails and some civilian staff. He referred to Exhibit C and said that 18% of the cars covered by the Sheriff's fuel budget are assigned to other agencies.

Councillor Talley asked why these agencies are not charged back for gas and maintenance. Major Chappell said that some agencies do pay back some monies, and

MCSD receives approximately \$4,000 a month to offset those costs. He said that the problem with the chargeback system is that there is not sufficient money for start-up costs. It would be a simple matter of taking the money out of their budget and distributing it to other County budgets. Councillor Talley asked County Auditor Marty Womacks to look into the possibility of a chargeback system. Ms. Womacks said that such a system could probably be figured out pretty easily. Councillor Talley said that budgeting it this way does not really show truth in budgeting.

Councillor McWhirter said that she appreciates the necessity of take-home cars, but asked how many of these other agency cars are take-home cars. Major Chappell said that he does not know because they are not in his department. Councillor McWhirter asked if there are any restrictions or limited uses on take-home cars. Major Chappell said that there are no restrictions on the sheriff deputy cars. Councillor McWhirter said that more discussion needs to take place regarding take-home cars and possibly bringing more money back in. She said that gas should not be funded for individuals using City take-home cars for other part-time jobs. Major Chappell said that such restrictions could probably be done pretty easily and he will talk to the Sheriff about it.

Councillor McWhirter said that in past years, the Sheriff's Department has always come and asked for additional fuel monies, but they have always found savings in the department or other funding sources so that they did not have to take money from the General Fund. Major Chappell said that the department will have a surplus, and as a rule usually has between \$200,000 and \$500,000 to give back to the General Fund at the end of the year. Councillor McWhirter asked why then the Sheriff is asking for this additional \$1 million. Major Chappell said that he did not draft the ordinance and it was initiated by the Council office. Councillor Sanders said that if the department has a surplus, that will help the General Fund even more. Major Chappell said that the MCSD has not been able to pay their fuel bills monthly, which causes a hardship on other departments and agencies.

Councillor Mahern said that because most of these cars are handed down to these other agencies, it costs more for maintenance and gas. He said that 18% of these vehicles are not even for MCSD, but for other County agencies that contribute to that shortfall. Councillor Sanders asked Ms. Womacks, who is afforded a County car per her title as County Commissioner, if her vehicle includes take-home privileges. Ms. Womacks said that it does, but that she only uses it to go to and from work and if taking the staff somewhere. She said that she does not drive the car for personal use. Councillor Sanders asked if she could use the car for personal use if she so chose. Ms. Womacks said that she could. Councillor Sanders asked if the cars allotted to the Assessors are for townships or the County. Ms. Womacks said that those belong to inspectors in the County Assessor's office. Major Chappell added that the County Treasurer also leaves his car in the building and only uses it for official business. Councillor Sanders asked what the average cost of fuel per car is. Major Chappell said that this depends on year and type of car, but he can research this and get the Committee information. Councillor Sanders said that she has seen City vehicles left

running at private security firms, where maybe an employee is on a part-time job, and this issue needs to be looked at. Major Chappell said that he will discuss this with the Sheriff.

Councillor Franklin asked what will happen to the \$1 million if it is not all used. Major Chappell said that it will go back into the County General Fund. He said that there are other issues with the Sheriff's budget, such as a \$571,000 shortage for jail beds in Jail II, which the traffic ticket fee increases should help to fund. He added that there is also a problem with some shortfalls in medical costs for the Arrestee Processing Center (APC) in the amount of \$295,000 which also needs addressed. Councillor Franklin asked if some of this \$1 million will then be re-directed elsewhere. Major Chappell said that he would have to come back to the Council to transfer the funds for use in another area. Otherwise, anything not used will go back into the County General Fund. Councillor Franklin said that she would not be in favor of using these funds in other areas, but understands the need for fuel.

Councillor Plowman stated that there are some limitations on take-home vehicles for sheriff deputies. He said that if an officer is in their vehicle off-duty, they still must have their radio on and be armed. They must also stop and help stranded motorists and must follow other regulations and rules.

Councillor Schneider said that as he recalls, the Sheriff has always been able to transfer funds from other characters to cover the fuel shortfalls. Major Chappell said that they have not always had the money within their own budget, and last year received money from the Auditor's budget. Councillor Schneider asked since when the MCSD has had trouble keeping within their fuel budget. Major Chappell said that they have had to shift dollars since 1983. Councillor Schneider said that he thought they were able to shift money from commissary funds to cover these costs. Major Chappell said that they cannot use commissary funds for fuel; only supplies, tires, batteries, etc. Councillor Schneider asked if they have had to ask for additional appropriations for gasoline before. Major Chappell said that they have not. Councillor Schneider asked if the MCSD is requesting this appropriation now, or if it was submitted by the Council. Major Chappell said that it was submitted by the Council office, but the Sheriff's Department would have had to come for an additional \$1,039,000 to pay the City the fuel costs owed if the Council had not initiated this proposal first. He said that as of the last estimate, they will still probably be about \$206,000 short at the end of the year if fuel prices do not go down.

Councillor McWhirter asked if Major Chappell does not anticipate any savings to cover these fuel costs. Major Chappell said that they do expect underspending in the amount of \$200,000 to \$500,000. Councillor McWhirter stated that it looks as though there is some padding in Character 01, Personal Services. Major Chappell said that there is some surplus in hospitalization insurance, but the department is actually behind on Public Employees Retirement Fund (PERF) and Federal Insurance Contributions Act (FICA) social security payments.

Councillor Talley said that even though the actual costs of fuel have continued to increase over the years, the budget seems to have decreased. Major Chappell said that they have requested more during the budget discussions, and asked for \$800,000 more last year as an above-the-guideline request, but were denied.

Councillor Franklin said that Major Chappell's testimony that there are other things in the budget needing funded concerns her. She asked if any of this surplus might be used for salaries. Major Chappell said that this is not the intent. He said that the department would have to come before the Council with another proposal to transfer, as the monies would only be available for Character 02 expenses. Councillor Franklin said that she wants to make it clear that they will not be using any of this money for salaries. Major Chappell said that they will not, and they should actually have a surplus in Character 01. He said they would only come back to the Council typically for money for fuel or food.

Councillor Schneider said that when discussing the Prosecutor's reduction, the rationale for taking money now to build up fund balances instead of waiting until the end of the year for excesses was put forth. He asked why that cannot be done here to see how much the Sheriff actually needs. Major Chappell said that at the price they are paying for fuel currently, they are out of money and cannot make their fuel payments to the City, which in turn causes the City to suffer. He said that in the past, they were several months in arrears to the City with fuel bills, and waited until later in the year. Councillor Schneider said that he does not understand why they cannot do as they have done in years past and find savings in other areas and transfer the money they need. Major Chappell said that they are trying very hard to find areas to save and are not filling vacancies right away so that they will have money to return to fund balance at the end of the year. He added, however, it is very hard to project how much they will have in surplus. Councillor Schneider said that before the next Council meeting, he would like to see what cost savings measures the department is taking. Major Chappell said that he will get with the Sheriff to determine this information. Councillor McWhirter said that she would also like to see the balances in the commissary fund and other special funds. Major Chappell said that these reports are on file in the Council office, and the commissary fund is very specific, and he does not have control over that fund. Chairwoman Moriarty Adams said that State law determines how the commissary fund is spent. Major Chappell said that this is correct.

Councillor Mahern said that gas prices continue to fluctuate and may even increase more. He asked if Major Chappell is estimating that they will need all of this \$1 million for fuel, and possibly even more. Major Chappell said that this is correct.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 305, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

Chairwoman Moriarty Adams stated that because this appropriation is being made from the County General Fund, the 30-day rule applies, and the proposal will not be advertised for public hearing until the July 19<sup>th</sup> full Council meeting.

PROPOSAL NO. 306, 2004 - approves an increase of \$500,000 in the 2004 Budget of the Marion County Public Defender Agency (County General Fund) to fund additional staff for representation of indigent respondents/defendants

Mr. Cook stated that the attorneys' caseloads in the juvenile delinquency division are excessive, with over 3,500 cases for six full-time lawyers. He said that these caseloads exceed national standards by more than 600 cases per attorney, and leave lawyers with little time for appointments, client visits, and investigation of cases. He said that the attorneys are scheduled in court so often that they have no time out of court to work on cases. Public defenders often meet their clients for the first time on the day of the trial. He said that there is only one paralegal, no investigators, and no social workers for the juvenile division. Poor representation translates into many children being needlessly detained. He added that the physical office space and facilities are inadequate, as well. He explained the resources needed to meet present standards and a cost analysis to achieve those standards in order to qualify for a 40% reimbursement as outlined in Exhibit D. Mr. Cook said that the Public Defender Agency started coming into compliance with State standards in 1995 and 1996. Because Marion County is so much larger than other counties and has so many more cases, they were allowed to phase in their compliance. He said that the juvenile division is the final phase of the agency to be brought into compliance, and if they are not brought into compliance, they could jeopardize the reimbursements to the County General Fund. He said that the agency is not meeting standards yet cannot refuse to accept cases. They have a very low turnover rate in the juvenile division, and they are dedicated servants, but they cannot continue in the current conditions with current caseloads.

Councillor Sanders said that during budget reviews, the Public Defender Agency originally requested \$800,000. They are under court orders and must take action to come into compliance and meet standards by June 25, 2004 to avoid a mandate. She said that through the budget review process, they were able to find the \$120,000 to transfer in Proposal No. 274, 2004 and challenged the agency to work with the courts to adopt an application fee to make sure people using public defenders are eligible for services. She said that this application fee would help with funding. Of course, judges could still waive these fees, but they estimate an additional \$180,000 could possibly be raised. Therefore, the amount of additional appropriations was lowered to \$500,000, of which the agency would be eligible for 40% reimbursement. She asked if this money would not be paid until the end of the year. Mr. Cook said that the reimbursements are actually paid on a quarterly basis. He said that they have tried to increase funds with recoupment orders, but by paying an application fee up front, this might be a more realistic way to generate revenue. State statute allows the court to determine financial status and to issue recoupment orders where applicable.

Councillor McWhirter said that there have been several reductions and increases at this meeting, and she asked what the totals of all the reductions and increases are and if the reductions are all sufficient to cover the increases and if the Council is saving more money than they are re-appropriating. Councillor Sanders said that there are still some reductions to be heard in the Administration and Finance Committee next week, but if all are adopted, there will be an additional savings to the fund balance of approximately \$1.5 million.

Councillor McWhirter said that she would like to wait to vote on this appropriation until the other reductions have passed. She moved, seconded by Councillor Schneider, to "Table" Proposal No. 306, 2004. The motion failed by a vote of 3-4, with Councillors Franklin, Moriarty Adams, Oliver, and Talley casting the negative votes.

Councillor Sanders added that the 30-day rule also applies to this proposal, so the full Council will not vote on the proposal until July 19, 2004, at which time they will know whether the reductions have passed or not.

Councillor McWhirter said that she will vote against the proposal this evening, but might change her vote on the Council floor if all the other reduction proposals pass.

Councillor Schneider added that he cannot support the proposal this evening either because he is not comfortable with the way the whole process was handled.

Councillor Oliver said that he will support the proposal because every citizen has a constitutional right to proper representation.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 306, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 4-3, with Councillors McWhirter, Plowman, and Schneider casting the negative votes.

PROPOSAL NO. 307, 2004 - approves an increase of \$57,300 in the 2004 Budget of Marion County Prosecutor (State and Federal Grants Fund) to provide continued funding for a deputy prosecutor and part time investigator/victim advocate for the joint project, Regional Gang Interdiction Program, funded by a grant from Bryne Memorial Funds awarded through Indiana Criminal Justice Institute

Lisa Bentley, chief of operations for the Marion County Prosecutor's Office, stated that the Regional Gang Interdiction Program is a coordinated effort among several agencies to prevent and control gang violence. She cited a few examples of recent gang-related activity that had been uncovered and prosecuted due to this very effective program: 1) five members of a gang being arrested for arson fires, 2) four people arrested as part of an identification fraud ring at the Bureau of Motor Vehicles, and 3) confiscature of seven kilograms of cocaine and capture of several members of the 34<sup>th</sup> Street gang. Ms. Bentley added that there is no local match required.



[Clerk's Note: Councillor Schneider left at 8:29 p.m.]

Councillor Oliver moved, seconded by Councillor McWhirter, to send Proposal No. 307, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0. [Clerk's Note: Councillor Talley was out of the room during the vote.]

PROPOSAL NO. 308, 2004 - approves an increase of \$200,000 in the 2004 Budget of Marion County Prosecutor (State and Federal Grants Fund) to fund the budget of the Child Advocacy Center, funded by a grant from Family and Social Services Administration

Ms. Bentley introduced Lisa Borges, deputy prosecutor, who is involved with the Child Advocacy Center. Ms. Borges gave a brief history of the Family Advocacy Center, and stated that previously a child victim might have to endure three interviews by Child Protective Services (CPS), law enforcement personnel, and then again by the Prosecutor's Office. Now all three work together and the first interview is video-taped so that the child does not have to endure three separate interviews. She briefly explained other changes and said that focus got away from protecting children for a while because of private fund-raising conflicts. Now with this grant from the Family and Social Services Administration (FSSA), the focus is back on helping the child and the family.

Councillor McWhirter moved, seconded by Councillor Franklin, to send Proposal No. 308, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0. [Clerk's Note: Councillor Talley was out of the room during the vote.]

Chairwoman Moriarty Adams asked for consent to vote on Proposal Nos. 309-311, 2004 together. Consent was given.

PROPOSAL NO. 309, 2004 - approves an increase of \$218,070 in the 2004 Budget of Community Corrections (State and Federal Grants Fund) to fund a Juvenile Court Intensive Probation Services Program for fiscal year 2004/2005, funded by a grant from the Department of Corrections

PROPOSAL NO. 310, 2004 - approves an increase of \$946,254 in the 2004 Budget of Community Corrections (Home Detention User Fee Fund) to fund the first six months (fiscal year 2004/2005) of the Home Detention Program

PROPOSAL NO. 311, 2004 - approves an increase of \$2,873,086 in the 2004 Budget of Marion County Community Corrections (State and Federal Grants) to appropriate the continuation of the annual Department of Corrections Grant for fiscal year 2004/2005, funded by a grant from the Department of Corrections

Brian Barton, director of Marion County Community Corrections, stated that he sent out a memo explaining these proposals to Committee members. He said that Proposal No. 309, 2004 funds an electronic monitoring program as a last-chance alternative to the Department of Corrections for juveniles. He said that there are approximately 50 to 60 juveniles in this program.

Councillor Franklin stated that she helps with visits to these homes, and this is a wonderful program.

Mr. Barton said that Proposal No. 310, 2004 funds the home detention program and equipment leasing. Other than an additional \$145,000 for salaries to achieve some parity and address the 58% turnover rate, the amounts are the same as in previous years. He said that this proposal is funded through user fees and no tax dollars are used.

Councillor McWhirter asked what a home detention employee's starting salary would be. Mr. Barton said that the starting salary is \$23,000, which is not even the minimum of the pay structure. He said that the additional salary money will increase starting salaries to just a few dollars short of \$26,000 and a planned salary structure will increase that pay to \$35,000 within five years. After that, increases are based on merit and review. Chairwoman Moriarty Adams asked if Mr. Barton could get a copy of that salary structure to the Committee members. Mr. Barton said he will get a copy to the clerk. [Clerk's Note: Document is attached as Exhibit E.]

Councillor Talley asked if these are grant dollars. Mr. Barton said that they are user fees that clients pay who are sentenced to home detention. He said that this budget has always been funded by user fees.

Mr. Barton said that Proposal No. 311, 2004 is the annual Department of Corrections (DOC) grant to fund various programs. He said that there is a reduction in the grant from last year, because of \$62,042 granted last year for a one-time capital expense which is not needed this year. All other line items are exactly the same as last year.

Councillor Talley moved, seconded by Councillor McWhirter, to send Proposal Nos. 309-311, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 6-0.

#### VOLUNTEERS OF AMERICA PRESENTATION – Mary Leffler

Mary Leffler, division director of women's services for the Volunteers of America (VOA), stated that the VOA is a non-profit organization that has been in Indiana for 105 years. She said that they provide a variety of services to Marion County Community Corrections, including counseling, alcohol and drug addiction treatment, and work release. She said that their newest project is Theodora House, which will be located at 927 North Pennsylvania in the former Salvation Army Harbor Light building and will be a

new center for women. She said that the VOA currently has a 180-bed facility on Capitol Avenue which houses 40 women and 140 men. She said they have learned that men and women commit crimes for different reasons, and there was a need to focus on the needs of women differently. She said that women have different pathways to crime and 80% of women offenders are victims of abuse. Twenty-five percent of these women suffered abuse before the age of five years old in their own home, and 80% also have alcohol and drug dependencies. She said that women usually commit non-violent crimes such as fraud, robbery, prostitution, and drugs. She said that most of these women are undereducated with no job skills and minor children. Therefore, the new center will focus on family reunification, parenting, work release, and help women to make healthy decisions for their future. She said that a child with a parent in the criminal justice system has a five times greater likelihood of committing a crime themselves. She said that women in the Theodora House can earn privileges of family visits and even overnight stays.

Ms. Leffler said that the center is scheduled to open on Labor Day Weekend, doubling the capacity for female clients from 40 to 80, with a capacity to accept as many as 100. The House is primarily funded by a \$1 million United Way grant. She said that they also intend to write a one-time special grant to the Department of Corrections to seek nine months of funding for increased capacity.

Chairwoman Moriarty Adams thanked Ms. Leffler for her presentation and her patience in waiting so long this evening to make it.

Councillor Oliver said that this program is badly needed, and women who make one mistake often give up because it is such a hard transition to come out of incarceration and find a decent-paying job. He applauded the VOA's efforts. Ms. Leffler said that they currently have 20 women in the work release program at the existing facility and their employment rate is high. She said that a co-ed facility creates other issues, and the new all-female facility will help tremendously.

There being no further business, and upon motion duly made, the meeting was adjourned at 9:12 p.m.

Respectfully Submitted,

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Mary Moriarty Adams, Chairwoman

MMA/ag